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a bank operating branch banks ratified a contract made by its president with a new bank, taking over the assets of a branch bank, and assuming its liabilities, held, under the evidence, for the jury.

[Ed. Note.—For other cases, see Banks and Banking, Cent. Dig. §§ 841, 874; Dec. Dig. § 228.* 2 Va.-W. Va. Enc. Dig. 302.]

9. Corporations (§ 400*)—Officers—"Authority."—The authority of an officer of a corporation is that which the corporation holds him out to the public and those dealing with it as possessing, and no secret limitations are binding on third persons dealing with the officer as the representative of the corporation.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 1587, 1590, 1591; Dec. Dig. § 400.* 10 Va.-W. Va. Enc. Dig. 566.]

For other definitions, see Words and Phrases, vol. 1, pp. 646-648.]

Error to Circuit Court, Lancaster County.

Action by the L. E. Mumford Banking Company against the Farmers' & Merchants' Bank of Kilmarnock, Incorporated. There was a judgment for defendant, and plaintiff brings error. Affirmed.

James E. Heath, Jr., of Norfolk, for plaintiff in error.

J. W. Chinn, Jr., of Warsaw, and *T. J. Downing*, of Lancaster, for defendant in error.

COX v. CASKIE.

June 11, 1914.

[82 S. E. 118.]

Judgment (§ 866*)—Revival—Limitations.—Under Code 1904, § 3577, providing that scire facias to revive a judgment may be sued out within 20 years after the return of execution, except in case it is against a personal representative of a decedent, when it shall be brought within 5 years from the qualification of such representative, scire facias to revive a judgment recovered against a decedent when sued out within 20 years after the last return of execution, and within 5 years after appointment of an administrator with the will annexed, is within time, notwithstanding, before the appointment of the administrator, the estate, which consisted wholly of real property, had been committed to the sheriff, for the appointment of the sheriff did not start the running of limitations for the benefit of defendant; the statute referring to the representative's own appointment.

[Ed. Note.—For other cases, see Judgment, Cent. Dig. §§ 1603-1607; Dec. Dig. § 866.* 8 Va.-W. Va. Enc. Dig. 613.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

Error to Circuit Court of City of Richmond.

Scire facias by James Caskie, as administrator, against E. P. Cox, as administrator with the will annexed of Peter C. Warwick, to revive a judgment. The judgment was revived, and defendant brings error. Affirmed.

Willis B. Smith, of Richmond, for plaintiff in error.

Scott & Buchanan, of Richmond, for defendant in error.

PARRISH *v.* PARRISH et al.

June 11, 1914.

[82 S. E. 119.]

1. Habeas Corpus (§ 99*)—Custody of Child—Rights of Father—Discretion of Court.—While a father has a prior right to the custody of his infant child, yet where the father and mother are divorced, the court, on the father's application for custody, will exercise its discretion according to the facts, consulting the wishes of the minor, if of years of discretion, and, if not, exercising its own judgment as to what will be best calculated to promote the interests of the child, having due regard to the legal rights of the father.

[Ed. Note.—For other cases, see Habeas Corpus, Cent. Dig. § 84; Dec. Dig. § 99.* 7 Va.-W. Va. Enc. Dig. 22.]

2. Habeas Corpus (§ 99*)—Custody of Child.—On an application by a father for custody of his infant son eight years of age, facts held to justify a decree granting custody to the father during the three summer months and requiring his surrender to the mother during the balance of the year.

[Ed. Note.—For other cases, see Habeas Corpus, Cent. Dig. § 84; Dec. Dig. § 99.* 7 Va.-W. Va. Enc. Dig. 22.]

3. Habeas Corpus (§ 112*)—Custody of Child—Bond.—Where a father, after being divorced from his wife, lived in Chicago, while the wife resided in Virginia, and he applied for custody of their infant son, the court having found that he was entitled to the custody and care of the child for a portion of the year and was a proper person to be intrusted therewith, it was error to require of him a bond conditioned that he would comply with the court's order and return the child to Virginia and deliver him to the child's mother when the period of his custody expired.

[Ed. Note.—For other cases, see Habeas Corpus, Cent. Dig. § 101; Dec. Dig. § 112.* 7 Va.-W. Va. Enc. Dig. 20.]

Error to Circuit Court, Nansemond County.

Habeas corpus on petition of James S. Parrish against Fannie

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.